



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 142 3161]

Henry Schein Practice Solutions, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before February 4, 2016.

ADDRESSES: Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/henryscheinconsent> online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Henry Schein Practice Solutions, Inc. -- Consent Agreement; File No. 142 3161” on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/henryscheinconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write “Henry Schein Practice Solutions, Inc. -- Consent Agreement; File No. 142 3161” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC

20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jessica Lyon (202-326-2344) or Kristin Madigan (202-326-3560), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 5, 2016), on the World Wide Web at:
<http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 4, 2016. Write “Henry Schein Practice Solutions, Inc. -- Consent Agreement; File No. 142 3161” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), and FTC Rule 4.10(a)(2), 16 CFR § 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/henryscheinconsent> by following the instructions on the

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Henry Schein Practice Solutions, Inc. -- Consent Agreement; File No. 142 3161” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 4, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Henry Schein Practice Solutions, Inc. (“Henry Schein”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the

agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Henry Schein develops and sells dental practice management software, including the Dentrix G5 office management software for dental practices. The Commission's proposed complaint alleges that Henry Schein violated Section 5 of the Federal Trade Commission Act by making false representations to consumers from January 2012 through January 2014 about the security of its Dentrix G5 software. Specifically, the Commission's proposed complaint alleges that Henry Schein falsely represented that Dentrix G5 provides industry-standard encryption of patient data and helps dentists meet the security requirements of the Health Insurance Portability and Accountability Act ("HIPAA"). The Commission's proposed complaint alleges that, in truth and in fact, Dentrix G5 used technology that was less secure than industry-standard encryption, and was not capable of helping dentists protect patient data as required by HIPAA.

The proposed order contains provisions designed to prevent Henry Schein from engaging in the same or similar acts or practices in the future.

Part I of the proposed order prohibits Henry Schein from misrepresenting: (A) whether or to what extent any product or service designed to collect or store personal information offers industry-standard encryption; (B) the ability of the product or service to help customers meet regulatory obligations related to privacy or security; or (C) the extent to which a product or service maintains the privacy, security, confidentiality, and integrity of personal information.

Part II of the proposed order requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard, which is recommended as an industry standard by the National Institute of Standards and Technology. Part II provides for individual notice letters to affected customers

and the creation of a toll-free telephone number and email address dedicated to responding to inquiries about the order.

Parts III through V of the proposed order require Henry Schein to pay \$250,000 into a fund to be administered by the Commission. If the Commission decides that direct redress to affected customers is impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines is reasonably related to Henry Schein's practices alleged in the proposed complaint. Any money not used is to be deposited to the U.S. Treasury.

Parts VI, VII, and IX of the proposed order are reporting and compliance provisions. Part VI requires that for five (5) years after the last date of dissemination of any representation covered by the proposed order, Henry Schein will maintain and upon request make available certain materials, including: (A) all advertisements and promotional materials containing the representation; (B) all materials that were relied upon in disseminating the representation; and (C) all tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation. Part VII is an order distribution provision that requires Henry Schein to provide the order to current and future principals, officers, directors, and managers, as well as current and future employees having managerial responsibilities with respect to the subject matter of the order. Part IX requires Henry Schein to submit a compliance report within sixty (60) days after service of the order, and additional compliance reports within ten (10) days of written notice from the Commission. Part VIII of the proposed order requires Henry Schein to notify the Commission at least thirty (30) days prior to any corporate changes that may affect

compliance obligations. Part X is a provision “sunsetting” the order after 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.

By direction of the Commission.

Donald S. Clark
Secretary.

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